

# HOUSE . . . . . No. 1068

By Mr. Hill of Ipswich, petition of Marie J. Parente and others relative to bullying in schools. Education.

## The Commonwealth of Massachusetts

### PETITION OF:

Marie J. Parente	Kathi-Anne Reinstein
Elizabeth A. Poirier	Benjamin Swan
James E. Vallee	Paul K. Frost
Barbara A. L'Italien	

In the Year Two Thousand and Five.

### AN ACT RELATIVE TO BULLYING IN SCHOOLS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Section I — Legislative findings.

2 The Legislature finds that a safe and civil environment in  
3 school is necessary for students to learn and achieve high acad-  
4 emic standards.

5 The Legislature finds that harassment, intimidation or bullying,  
6 like other disruptive or violent behavior, is conduct that disrupts  
7 both a student's ability to learn and a school's ability to educate  
8 its students in a safe, nonthreatening environment.

9 The legislature further finds that students learn by example.  
10 The legislature charges school administrators, faculty, staff and  
11 volunteers with demonstrating appropriate behavior, treating  
12 others with civility and respect, and refusing to tolerate harass-  
13 ment, intimidation or bullying.

14 Section II — Definitions.

15 As used in this article, "harassment, intimidation or bullying"  
16 means any intentional gesture or any intentional written, verbal or  
17 physical act or threat that:

18 (a) A reasonable person, under the circumstances, should know  
19 would have the effect of:

20 (1) Harming a student;

21 (2) Damaging a student's property;

22 (3) Placing a student in reasonable fear of harm to his or her  
23 person; or

24 (4) Placing a student in reasonable fear of damage to his or her  
25 property; or

26 (b) Is sufficiently severe, persistent or pervasive that it creates  
27 an intimidating, threatening or abusive educational environment  
28 for a student.

29 Section III — Policy prohibiting harassment, intimidation or  
30 bullying.

31 (a) Each county/school board of education shall establish a  
32 policy prohibiting harassment, intimidation or bullying. Each  
33 county/school board has control over the content of its policy as  
34 long as the policy contains, at a minimum, the requirements of  
35 subdivision (b) of this section. The policy shall be adopted through a  
36 process that includes representation of parents or guardians,  
37 school employees, school volunteers, students and community  
38 members.

39 (b) Each county/school board policy shall, at a minimum,  
40 include the following components:

41 (1) A statement prohibiting harassment, intimidation or bul-  
42 lying of any student on school property, on a school bus or other  
43 school-related vehicle, at an official school bus stop, or at a  
44 school-sponsored activity or event whether or not it is held on  
45 school premises;

46 (2) A definition of harassment, intimidation or bullying no less  
47 inclusive than that in section two of this article;

48 (3) A description of the type of behavior expected from each  
49 student;

50 (4) Consequences and appropriate remedial action for a person  
51 who commits an act of harassment, intimidation, or bullying;

52 (5) A procedure for reporting an act of harassment, intima-  
53 tion, or bullying, including a provision that permits a person to  
54 report an act of harassment, intimidation, or bullying any-  
55 mously. However, this subdivision shall not be construed to  
56 permit formal disciplinary action solely based on an anonymous  
57 report;

58 (6) A requirement that school personnel report prohibited inci-  
59 dents of which they are aware;

60 (7) A procedure for responding to any reported act of harass-  
61 ment, intimidation, or bullying;

62 (8) A procedure for prompt investigation of reports of viola-  
63 tions and complaints, identifying either the principal or the prin-  
64 cipal's designee as the person responsible for the investigation;

65 (9) A requirement that parents or guardians of any student  
66 involved in an incident prohibited pursuant to this article be  
67 notified;

68 (10) The range of ways in which a school will respond once an  
69 incident of harassment, intimidation, or bullying is identified; and

70 (11) A procedure for documenting any prohibited incident that is  
71 reported.

72 (12) A statement that prohibits reprisal or retaliation against  
73 any person who reports an act of harassment, intimidation, or bul-  
74 lying, and the consequences and appropriate remedial action for a  
75 person who engages in that type of reprisal or retaliation;

76 (13) A strategy for protecting a victim from additional harass-  
77 ment, intimidation or bullying, and from retaliation following  
78 a report;

79 (14) A procedure for counseling students who have been vic-  
80 tims or targets of bullying;

81 (15) Consequences and appropriate remedial action for a person  
82 found to have falsely accused another as a means of retaliation or  
83 as a means of harassment, intimidation, or bullying;

84 (16) A disciplinary or counseling procedure for any student  
85 guilty of harassment, intimidation or bullying;

86 (17) A requirement that any information relating to a reported  
87 incident is confidential, and exempt from disclosure under the  
88 provisions of chapter...of this code; and

89 (18) A statement of how the policy is to be publicized including  
90 notice that the policy applies to participation in school-sponsored  
91 activities.

92 (c) Each county/school board shall adopt the policy and submit  
93 a copy to the state superintendent of schools by the first day of  
94 September, two thousand six.

95 (d) To assist county/school boards in developing their policies,  
96 for the prevention of harassment, intimidation, or bullying, the

97 Department of Education shall develop a model policy applicable  
98 to grades kindergarten through twelfth and post this policy on  
99 their website. The model policy shall be issued by the first day of  
100 December 2005.

101 (e) Notice of the county/school board's policy shall appear in  
102 any student handbooks, and in any county board publication, that  
103 sets forth the comprehensive rules, procedures and standards of  
104 conduct for its schools, and in its pupil handbooks.

105 Section IV — Prohibiting reprisal, retaliation, or false accusation.

106 (a) A school administrator, employee, pupil, or volunteer shall  
107 not engage in reprisal, retaliation, or false accusation against a  
108 victim, witness, or one with reliable information about an act of  
109 harassment, intimidation, or bullying.

110 (b) A school administrator, employee, pupil, or volunteer who  
111 has witnessed, or has reliable information that a student has been  
112 subjected to, harassment, intimidation, or bullying, whether verbal  
113 or physical, is encouraged to report the incident to the appropriate  
114 school official designated by the school district's or public school  
115 academy's policy.

116 Section V — Immunity.

117 A school employee, student or volunteer is individually immune  
118 from a cause of action for damages arising from reporting harass-  
119 ment, intimidation or bullying, or any failure to remedy the  
120 reported harassment, intimidation or bullying, if that person:

121 (1) In good faith promptly reports an incident of harassment,  
122 intimidation or bullying;

123 (2) Makes the report to the appropriate school official designated  
124 by the school district's or public school academy's policy; and

125 (3) Makes the report in compliance with the procedures as speci-  
126 fied in policy prohibiting harassment, intimidation, or bullying.

127 Section VI — Policy training and education.

128 (a) Schools and county/district boards are encouraged to form  
129 bullying prevention task forces, programs and other initiatives  
130 involving school staff, students, teachers, administrators, volun-  
131 teers, parents, law enforcement and community members.

132 (b) Each county/district board or public school academy shall  
133 do all of the following:

134 (1) Provide training on the harassment, intimidation or bullying  
135 policy to school employees and volunteers who have direct con-  
136 tact with students; and

137 (2) Develop a process for educating students on the harassment,  
138 intimidation or bullying policy.

139 (3) Information regarding the county board policy against  
140 harassment, intimidation or bullying shall be incorporated into  
141 each school's current employee training program.

142 Section VII — Liability.

143 Except as provided in section five of this article, nothing in this  
144 article prohibits a victim from seeking redress under any other  
145 provision of civil or criminal law. This section does not create or  
146 alter any tort liability.

147 Section VIII — Definitions.

148 (a) "At school" means in a classroom, elsewhere on or immedi-  
149 ately adjacent to school premises, on a school bus or other school-  
150 related vehicle, at an official school bus stop, or at a  
151 school-sponsored activity or event whether or not it is held on  
152 school premises.

153 (b) "Harassment, intimidation, or bullying" means any gesture  
154 or written, verbal, or physical act that a reasonable person under  
155 the circumstances should know will have the effect of harming a  
156 pupil or damaging his or her property or placing a pupil in reason-  
157 able fear of harm to his or her person or damage to his or her  
158 property, or that has the effect of insulting or demeaning any pupil  
159 or group of pupils in such a way as to disrupt or interfere with the  
160 school's educational mission or the education of any pupil.  
161 Harassment, intimidation, or bullying includes, but is not limited  
162 to, a gesture or written, verbal, or physical act described in this  
163 section that is perceived as being motivated by the harasser, intim-  
164 idator, or bully, for any reason, towards any target or victim.

165 Section IX — Accountability to the State Superintendent —  
166 Report to Lawmakers.

167 Each school district shall report to the superintendent of public  
168 instruction by January 31st of each year all incidents, resulting in  
169 disciplinary action, involving harassment, intimidation, or bul-  
170 lying, that result in a short or long-term suspension or expulsion  
171 on school premises or on transportation systems used by schools,  
172 in the year preceding the report. The superintendent shall compile  
173 the data and report it to the appropriate committees of the State  
174 House and the State Senate.